

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

UNITED STATES OF AMERICA

vs.

BENJAMIN LASHAWN COOPER

CASE NUMBER.: CR592-29

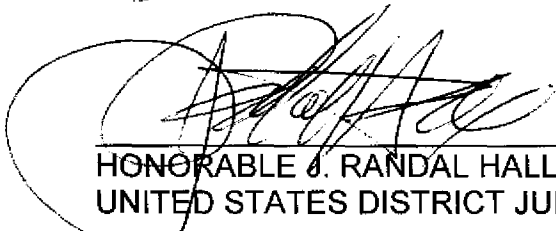
**ORDER**

Benjamin Cooper ("Cooper"), an inmate currently incarcerated at the Federal Medical Center in Lexington, Kentucky, filed a Motion entitled "Rule 60(b) Motion and Combined Affidavit for the Court to Adjudicate the Bailey Claim Previously Filed Under § 2255." The government filed a Response. On April 5, 2012, the Magistrate Judge recommended that Cooper's Rule 60(b) Motion be dismissed as untimely. The next day, Cooper's Reply to the government's Response was filed. This document was also docketed as an Objection to the Magistrate Judge's Report and Recommendation.

Cooper's Reply to the government's Response does not address the Magistrate Judge's determination that his Rule 60(b) Motion was untimely or otherwise respond to the Magistrate Judge's Report. Instead, Cooper's Reply only asserts that the government's contention that Cooper's 1996 motion, brought pursuant to 28 U.S.C. § 2255, did not assert a claim under Bailey v. United States, 516 U.S. 137 (1995), is inaccurate. The Magistrate Judge's recommendation of dismissal was based on the untimeliness of Cooper's Rule 60(b) Motion; Cooper's Reply to the government's Response has no effect on the determination regarding the timeliness of his Motion.

The deadline for filing objections to the Magistrate Judge's Report has passed. (Doc. No. 1088). The Report and Recommendation of the Magistrate Judge is adopted as the Opinion of the Court. Cooper's Rule 60(b) Motion is **DISMISSED** as untimely. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

**SO ORDERED**, this 10<sup>th</sup> day of May, 2012.



HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE